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15 Attorneys for Defendant
16 EDDIE BAUER, INC.

17 UNITED STATES DISTRICT COURT
18 SOUTHERN DISTRICT OF CALIFORNIA

19 KRISTAL D. SCHERER, an
20 individual, on behalf of herself
21 individually, all others similarly
22 situated, and on behalf of the general
23 public,

24 Plaintiffs,

25 v.

26 EDDIE BAUER, INC., a Delaware
27 corporation, and DOES 1 through 100,
28 inclusive,

Defendants.

Case No. 07-CV-2270 JM (AJB)

[Assigned to The Honorable Jeffrey T. Miller]

**NOTICE OF ERRATA TO
DEFENDANT EDDIE BAUER,
INC.'S NOTICE OF MOTION AND
PARTIAL MOTION TO DISMISS
PURSUANT TO FEDERAL RULE
OF CIVIL PROCEDURE 12(B)(6)**

Date: January 18, 2008
Time: 1:30 p.m.
Courtroom: 16

Date Action Filed: Sept. 20, 2007
Date Action Removed: Dec. 3, 2007

1 TO ALL PARTIES AND THEIR ATTORNEYS FOR RECORD:

2 PLEASE TAKE NOTICE that on page 1, line 2 of Eddie Bauer, Inc.'s ("Eddie
3 Bauer") Notice of Motion and Partial Motion to Dismiss, filed on December 10, 2007,
4 the hearing date is inadvertently, erroneously identified as January 11, 2007, instead of
5 the correct date of **January 18, 2008**, as correctly identified on the Caption page of the
6 same document. Please disregard the erroneous January 11, 2007 date. Attached as
7 Exhibit A is a corrected Page 1 of Eddie Bauer's Notice of Motion and Partial Motion to
8 Dismiss, identifying the correct hearing date as **January 18, 2008**.

9
10 Dated: December 12, 2007

AKIN GUMP STRAUSS HAUER & FELD LLP

11
12 By: /s/ Kalia C. Petmecky
13 Kalia C. Petmecky
14 Attorneys for Defendant
15 EDDIE BAUER, INC.
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Exhibit A

AKIN GUMP STRAUSS HAUER & FELD LLP

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Attorneys for Defendants

EDDIE BAUER, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KRISTAL D. SCHERER, an
individual, on behalf of herself
individually, all others similarly
situated, and on behalf of the general
public,

Plaintiffs,

v.

EDDIE BAUER, INC., a Delaware
corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 07-CV-2270-JM-AJB

[Assigned to the Honorable Jeffrey T.
Miller]

**DEFENDANT EDDIE BAUER,
INC.'S NOTICE OF MOTION AND
PARTIAL MOTION TO DISMISS
PURSUANT TO FEDERAL RULE
OF CIVIL PROCEDURE 12(b)(6)**

[Declaration Of Kalia C. Petmecky
Filed Concurrently Herewith]

Date: January 18, 2008

Time: 1:30 p.m.

Courtroom: 16

Date Action Filed: Sept. 20, 2007

Date Action Removed: Dec. 3, 2007

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on **January 18, 2008**, at 1:30 p.m. in the
3 Courtroom of the Honorable Jeffrey T. Miller (Courtroom 16) located at 880 Front
4 Street, Room 4290, San Diego, California 92101, Defendant Eddie Bauer, Inc. ("Eddie
5 Bauer") will, and hereby does, move the Court to dismiss with prejudice (1) the First
6 Cause of Action for alleged violations of California Labor Code § 221, and (2) Fourth
7 Causes of Action for alleged violations of California Business and Professions Code
8 § 17200, in Plaintiff Kristal D. Scherer's Complaint.

9 Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Eddie Bauer
10 moves to dismiss Plaintiff's claims on the grounds that Plaintiff has failed to state a
11 claim upon which relief can be granted pursuant to California Labor Code Section 221
12 and California Business and Professions Code Section 17200.

13 This Motion is based on this Notice of Motion and Motion, the accompanying
14 Memorandum of Points and Authorities, all papers and pleadings in the Court's file, any
15 other matter of which the Court may take judicial notice, and upon such oral argument
16 as may be presented to the Court at the time of the hearing on this matter.

17
18 Dated: December 10, 2007 **AKIN GUMP STRAUSS HAUER & FELD LLP**

19
20 By /s/
21 Kalia C. Petmecky
22 Attorneys for Defendant
23 EDDIE BAUER, INC.
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25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, California 90067. . On December 12, 2007, I electronically filed the foregoing **NOTICE OF ERRATA** with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Sheldon A. Ostroff, APC sostrofflaw@aol.com

and I hereby certify that I have mailed by the United States Postal Service a courtesy copy of the same to the following non-ECF participants(s):

Sheldon A. Ostroff, APC
Law Offices of Sheldon A. Ostroff
1441 State Street
San Diego, California 92101
Telephone: 619.544.0881

James C. Kostas, APC
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San Diego, California 92101
Telephone: 619.544.0880

Attorneys for Kristal D. Scherer

Attorneys for Kristal D. Scherer

☒ BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at Los Angeles, California.

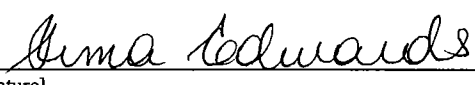
☐ BY OVERNIGHT DELIVERY I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the respective address(es) of the party(ies) stated above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on December 12, 2007 at Los Angeles, California.

Irma Edwards

[Print Name of Person Executing Proof]


[Signature]